

- A¹
- (b) hybridizes under highly stringent conditions to the nucleotide sequence of SEQ ID NO: 6 or the complement thereof.
-

Please add new claims 7 and 8 as follows:

A²

--7. (New) A recombinant expression vector comprising the isolated nucleic acid molecule of claim 4.

8. (New) A host cell comprising the recombinant expression vector of claim 7.--

RESPONSE

I. Restriction Requirement

The Examiner has determined that the original claims are directed to three separate and distinct inventions under 35 U.S.C. § 121, as follows:

- Group I: Claims 1-2, said to be drawn to isolated nucleic acid SEQ ID NO:1 encoding SEQ ID NO:2, or sequences that hybridize to SEQ ID NO:1, classified in class 536, subclass 23.1;
- Group II: Claim 3, said to be drawn to isolated nucleic acid SEQ ID NO:4, classified in class 536, subclass 23.1; and
- Group III: Claims 4-6, said to be drawn to isolated nucleic acid SEQ ID NO:6 encoding SEQ ID NO:7, or sequences that hybridize to SEQ ID NO:6, classified in class 536, subclass 23.1.

II. Response to Restriction Requirement

In response to the Restriction Requirement, Applicants hereby elect without traverse to prosecute the claims of the Group III invention (claims 4-6), drawn to isolated nucleic acid SEQ ID NO:6 encoding SEQ ID NO:7, or sequences that hybridize to SEQ ID NO:6, classified in class 536, subclass 23.1. Although not set forth by the Examiner, Applicants point out for the record that the Group III invention also includes sequences that hybridize to the complement of SEQ ID NO:6. Accordingly, claims 1-3 have been canceled herein without prejudice and without disclaimer as being drawn to non-elected inventions.

Applicants reserve the right to refile claims to the non-elected inventions in one or more future applications retaining the priority date of the present case and the earlier cited priority applications.

III. Status of the Claims

Claims 1-3, representing the Group I and II inventions, have been canceled without prejudice and without disclaimer as being drawn to non-elected inventions. No claims of the Group III invention have been canceled. Claim 5 has been amended. Claims 7 and 8 have been added.

Claims 4-8 are therefore presently pending in the case. For the convenience of the Examiner, a clean copy of the pending claims is attached hereto as **Exhibit A**. In compliance with 37 C.F.R. § 1.121(c)(1)(ii), a marked up copy of the original claims is attached hereto as **Exhibit B**.

IV. Support for the Amended and Newly Added Claims

Claim 5 has been amended to recite that the stringent hybridization conditions are highly stringent hybridization conditions. Support for this claim can be found throughout the specification as originally filed, with particular support being found at least at page 8, lines 5-14.

Claim 7 has been added to specifically recite recombinant expression vectors comprising the isolated nucleic acid molecule of claim 4. Support for this claim can be found throughout the specification as originally filed, with particular support being found at least at page 13, lines 21-26.

Claim 8 has been added to specifically recite host cells comprising the recombinant expression vectors of claim 7. Support for this claim can be found throughout the specification as originally filed, with particular support being found at least at page 13, lines 26-32.

It will be understood that no new matter is included within the amended or newly added claims.

V. Inventorship

As a result of the present response to the Restriction Requirement, Applicants respectfully request amendment of the inventorship of the present application under 37 C.F.R. § 1.48(b)(1) in order to remove the inventors of the non-elected claims, since their invention is no longer being claimed in the present application as amended. The inventors *that are requested to be removed* as a result of the cancellation of the non-elected claims as a result of the response to the restriction requirement are Gregory Donoho, Michael C. Nehls, Erin Hilbun, Brian Zambrowicz, and Arthur T. Sands. The

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inventor of the remaining claims is, therefore, C. Alexander Turner, Jr.

As set forth under 37 C.F.R. § 1.48(b)(2), the Commissioner is hereby authorized to charge the fee required under 37 C.F.R. § 1.17(i) for this amendment and request to correct inventorship to Deposit Account No. 50-0892.

VI. Conclusion

The present document is a complete response to the Restriction and Species Election Requirement. Applicants believe that the claims of the instant application meet all of the conditions for patentability and are in condition for allowance. Accordingly, an early indication of the same is respectfully requested. Should Examiner Schmidt have any questions or comments, or believe that certain amendments of the claims might serve to improve their clarity, a telephone call to the undersigned Applicants' representative is earnestly solicited.

Respectfully submitted,

August 22, 2002

Date

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